

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TROY ANTHONY PESINA,
Plaintiff,
vs.
MR. STOCKWELL, J. ROLLINS,
and POWELL,
Defendants.

NO. CV-10-441-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING FIRST AMENDED
COMPLAINT IN PART WITHOUT
PREJUDICE

Magistrate Judge Hutton filed a Report and Recommendation on April 8, 2011, recommending Mr. Pesina's First Amended Complaint be dismissed in part without prejudice (ECF No. 19). . Plaintiff, a prisoner currently housed at the Coyote Ridge Correction Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

In his First Amended Complaint, Petitioner had presented claims which were not exhausted prior to commencement of this action in December 2010, and he failed to assert any facts against Defendants J. Key or R. Herzog. *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) . There being no objections, the court **ADOPTS** the Report and Recommendation. The First Amended Complaint is **DISMISSED in part without prejudice**.

IT IS ORDERED Plaintiff's claims against Defendants Maggie Miller-Stout, M. Jackson, Bollinger, Avery and Garvin are **DISMISSED without prejudice** under 42

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING
FIRST AMENDED COMPLAINT IN PART WITHOUT PREJUDICE -- 1

1 U.S.C. § 1997e(a). These Defendants shall be **TERMINATED** from this action, and the
2 allegations beginning at page 5, items 11-32, are **STRICKEN** with leave to file in a
3 separate action. **IT IS FURTHER ORDERED** Defendants J. Key and R. Herzog are
4 **DISMISSED without prejudice** and **TERMINATED** from this action.

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order and forward a copy to Plaintiff.

7 **DATED** this 13th day of May, 2011.

8 *s/Lonny R. Suko*

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10 LONNY R. SUKO
11 UNITED STATES DISTRICT JUDGE
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